

for certain types of contracts for services, it must still comply with all other Federal and State requirements that remain in effect, such as those for competitive bidding or competitive negotiation (see 24 CFR 85.36):

(1) PHAs will still be subject to regular independent auditor (IA) audits.

(2) Office of Inspector General (OIG) audits or investigations will continue to be conducted as circumstances may warrant.

(g) In exceptional circumstances, the State/Area Office will have discretion to subject a PHA to any requirement that would otherwise be omitted under the specified relief, in accordance with § 901.115(i).

#### **§ 901.135 Memorandum of Agreement.**

(a) After consulting the independent assessment team and reviewing the report identified in section 6(j)(2)(b) of the 1937 Act, a Memorandum of Agreement (MOA), a binding contractual agreement between HUD and a PHA, shall be required for each PHA designated as troubled and/or mod-troubled. The scope of the MOA may vary depending upon the extent of the problems present in the PHA, but shall include:

(1) Baseline data, which should be raw data but may be the PHA's score in each of the indicators identified as a problem, or other relevant areas identified as problematic;

(2) Annual and quarterly performance targets, which may be the attainment of a higher grade within an indicator that is a problem, or the description of a goal to be achieved, for example, the reduction of rents uncollected to 6% or less by the end of the MOA annual period;

(3) Strategies to be used by the PHA in achieving the performance targets within the time period of the MOA;

(4) Technical assistance to the PHA provided or facilitated by the Department, for example, the training of PHA employees in specific management areas or assistance in the resolution of outstanding HUD monitoring findings;

(5) The PHA's commitment to take all actions within its control to achieve the targets;

(6) Incentives for meeting such targets, such as the removal of troubled or

mod-troubled designation and Departmental recognition for the most improved PHAs;

(7) The consequences of failing to meet the targets, including such sanctions as the imposition of budgetary limitations, declaration of substantial default and subsequent actions, limited denial of participation, suspension, debarment, or the imposition of operating funding and modernization thresholds; and

(8) A description of the involvement of local public and private entities, including PHA resident leaders, in carrying out the agreement and rectifying the PHA's problems. A PHA shall have primary responsibility for obtaining active local public and private entity participation, including the involvement of public housing resident leaders, in assisting PHA improvement efforts. Local public and private entity participation should be premised upon the participant's knowledge of the PHA, ability to contribute technical expertise with regard to the PHA's specific problem areas and authority to make preliminary/tentative commitments of support, financial or otherwise.

(b) A MOA shall be executed by:

(1) The PHA Board Chairperson and accompanied by a Board resolution, or a receiver (pursuant to a court ordered receivership agreement, if applicable) or other AME acting in lieu of the PHA Board;

(2) The PHA Executive Director, or a designated receiver (pursuant to a court ordered receivership agreement, if applicable) or other AME-designated Chief Executive Officer;

(3) The Director, State/Area Office of Public Housing, except as stated in (d) of this section; and

(4) The appointing authorities of the Board of Commissioners, unless exempted by the State/Area Office.

(c) The Department encourages the inclusion of the resident leadership in MOA negotiations and the execution of the MOA.

(d) Upon designation of a large PHA (1250 or more units under management) as troubled, the State/Area Office shall make a referral to HUD Headquarters for appropriate recovery intervention and the execution of an MOA by the

Assistant Secretary for Public and Indian Housing.

(e) A PHA will monitor MOA implementation to ensure that performance targets are met in terms of quantity, timeliness and quality.

**§ 901.140 Removal from troubled status and mod-troubled status.**

(a) A PHA has the right to petition the State/Area Office for the removal of a designation as troubled or mod-troubled.

(b) A PHA may appeal any refusal to remove troubled and mod-troubled designation to the Assistant Secretary for Public and Indian Housing in accordance with § 901.125.

(c) A PHA with fewer than 1250 units under management will be removed from troubled status by the State/Area Office upon a determination by the State/Area Office that the PHA's assessment reflects an improvement to a level sufficient to remove the PHA from troubled status, or mod-troubled, i.e., a total weighted management assessment score of 60% or more, and upon the conduct of a confirmatory review for PHAs with 100 or more units under management.

(d) A PHA with 1250 units or more under management will be removed from troubled status by the Assistant Secretary for Public and Indian Housing upon a recommendation by the State/Area Office when a PHA's assessment reflects an improvement to a level sufficient to remove the PHA from troubled or mod-troubled status, i.e., a total weighted management assessment score of 60% or more, and upon the conduct of an independent confirmatory review (team members from other State/Area Offices).

**§ 901.145 Improvement Plan.**

(a) After receipt of the State/Area Office notification letter in accordance with § 901.120(b) or receipt of a final resolution of an appeal in accordance with § 901.125 or, in the case of an RMC, notification of its indicator grades from a PHA, a PHA or RMC shall correct any deficiency indicated in its management assessment within 90 calendar days.

(b) A PHA shall notify the State/Area Office of its action to correct a deficiency. A PHA shall also forward to the

State/Area Office an RMC's report of its action to correct a deficiency.

(c) If the State/Area Office determines that a PHA or RMC has not corrected a deficiency as required within 90 calendar days after receipt of its final notification letter, the State/Area Office may require a PHA, or a RMC through the PHA, to prepare and submit to the State/Area Office an Improvement Plan within an additional 30 calendar days:

(1) The State/Area Office shall require a PHA or RMC to submit an Improvement Plan, which includes the information stated in (d) of this section, for each indicator that a PHA or RMC scored a grade of F.

(2) The State/Area Office may require, on a risk management basis, a PHA or RMC to submit an Improvement Plan, which includes the information stated in paragraph (d) of this section, for each indicator that a PHA scored a grade D or E, as well as other performance and/or compliance deficiencies as may be identified as a result of an on-site review of the PHA's operations.

(d) An Improvement Plan shall:

(1) Identify baseline data, which should be raw data but may be the PHA's score in each of the indicators identified as a problem in a PHA's or RMC's management assessment, or other relevant areas identified as problematic;

(2) Describe the procedures that will be followed to correct each deficiency; and

(3) Provide a timetable for the correction of each deficiency.

(e) The State/Area Office will approve or deny a PHA's or RMC's Improvement Plan, and notify the PHA of its decision. A PHA must notify the RMC in writing, immediately upon receipt of the State/Area Office notification, of the State/Area Office approval or denial of the RMC's Improvement Plan.

(f) An Improvement Plan that is not approved will be returned to the PHA with recommendations from the State/Area Office for revising the Improvement Plan to obtain approval. A revised Improvement Plan shall be resubmitted by the PHA or RMC within 30 calendar days of its receipt of the State/Area Office recommendations.